

5-25-2016

California Legislature Act of April 21, 1858, Stats 1858, Chap. 235, p. 198

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Recommended Citation

"California Legislature Act of April 21, 1858, Stats 1858, Chap. 235, p. 198" (2016). *Swamp and Overflow Lands Statutes*. 2.

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CHAP. 235

2.

ACT OF APRIL 21, 1858 - Stats 1858, p, 193

Date: April 21, 1858

Character: Swamp and overflowed lands

Procedure for Purchase: Citizen or entitled to become one; file affidavit in surveyor's office in county where land is; survey land; plat and field notes made by county; record in office and forward to Surveyor General; pay County Treasurer \$1 per acre; survey and purchase

Acreage Limitation: 320, which includes any lands purchased under 1855 Act. Land only for settlement or reclamation; only taken in $\frac{1}{4}$ sections; can't measure more than $\frac{1}{2}$ mile, front on any bay or navigable stream,

Exclusion: All swamp and overflows within San Francisco city and county within 5 miles of Oakland, or any incorporated city or town. No salt marsh land shall be subject to sale for 6 months.

Repealed 1855 Act but did not disturb vested rights.

Cessation of
interest.

required to receive and credit on his loan, at par, all money remaining in the court-house fund; after the payment of each annual interest; and in case of his not presenting his obligation for payment, the interest shall cease from and after January of each and every year, on his obligation, to the amount then in the court-house fund, after setting aside the annual interest then due.

Contracts for
building.

SEC. 10. So soon as the loan shall have been effected, the board shall advertise for sealed proposals for the building of a court-house and completion of county jail, for at least three weeks, in some newspapers in Los Angeles county; said proposals to be opened in the presence of the board, and the contract awarded to the lowest bidder, on his satisfying the board of his ability to comply with his contract. The board is authorized to reject any exorbitant bid, and to advertise for new proposals, in case of no suitable bid being made.

Publication
of act.

SEC. 11. This act shall be published in the Los Angeles Star, or some other paper, to be printed at Los Angeles, in the English language, and the Clamor Publico, or some other paper to be printed in Los Angeles, in the Spanish language, for three weeks next previous to the election, to be held on the first Wednesday of September, one thousand eight hundred and fifty-eight; and

Vote on loan.

at such election the electors are hereby instructed to vote "for loan" or "against loan;" and if upon the official returns of the election it shall appear that a majority of those voting thereon shall have voted in favor of a loan, this act shall take effect on the first day of October, one thousand eight hundred and fifty-eight; otherwise to be void.

(235)

CHAP. CCXXXV.—*An Act to provide for the Sale and Reclamation of the Swamp and Overflowed Lands of this State.*

[Approved April 21, 1858.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Referred to
Summary

Swamp
lands at \$1
per acre.

Swamp land
fund.

SECTION 1. The swamp and overflowed lands belonging to this state, or that may hereafter be granted to this state by act of Congress, entitled "an act to enable the state of Arkansas, and other states, to reclaim the swamp lands within their limits," passed September twenty-eighth, eighteen hundred and fifty, shall be sold at the rate of one dollar per acre, in manner prescribed by this act; and the proceeds of the sales thereof, under this or any former act shall be paid into the treasury of this state, as state revenues, and shall be credited to the account of a swamp land fund, to be appropriated for the reclamation of said lands, as the Legislature may hereafter direct; *Provided*, that, if upon the survey of such lands, any portion thereof shall be found to be lands belonging to the state by right of her sovereignty, the moneys arising therefrom shall be paid into the treasury of the state as other state revenues.

SEC. 2. Any person, who may be entitled by the laws of this state to become a citizen thereof, wishing to purchase land

under the provisions of this act, shall file an affidavit in the surveyor's office of the county in which the land sought to be purchased, or the larger portion thereof, is situated, that he has not entered any other land under the provisions of this act, or under the provisions of an act passed April twenty-eighth, eighteen hundred and fifty-five, entitled "an act to provide for the sale of the swamp and overflowed lands belonging to this state," which, with the land sought to be purchased, shall exceed three hundred and twenty acres, and that he does not know of any legal or equitable claim, other than his own, to the land sought to be purchased; that such purchase is sought for the purpose of settlement and reclamation by affidavit; and that he has not directly, nor indirectly, made any agreement or contract, in any way or manner, with any person, or persons, whatsoever, by which the title he may acquire from the government of the state should inure, in whole or in part, to the benefit of any person except himself. He shall then cause the land sought to be purchased to be surveyed; or, in case of a previous legal survey, shall cause the said survey to be approved and certified by the county surveyor of the county in which such land, or the larger [portion] thereof, is situated. Affidavit.
320 acres.
Surveyed.

SEC. 3. It shall be the duty of said county surveyor to make out a plat and field notes of every survey made or approved by him under the provisions of this act; he shall record the same in his office, and forward duplicate certified copies of the same to the Surveyor General of this state, within ten days after such survey may be completed or approved, as aforesaid, together with a copy of the affidavits required by section two of this act. And it shall be the duty of the Surveyor General, when the survey, upon examination, is found to be correct, to return one of the duplicate copies, with his approval endorsed thereon, to the said county surveyor, to be by him delivered to the person for whom the survey was made, and the county surveyor shall record the approval of the same in his office; and it shall also be the duty of the Surveyor General, when the survey has been made according to the provisions of this act, to file the same in his office, and to transmit a copy to the register of the land office of this state. Plat and field notes.
Certified copies.
Endorsed.
Filed with surveyor.

SEC. 4. The purchaser of land under the provisions of this act, shall, within thirty days after the record of the approval of the Surveyor General, as aforesaid, and upon presentation of such plot and field notes for record, approved by the Surveyor General as aforesaid, pay to the county treasurer of said county, one dollar per acre for all the land contained in such survey, which may be paid in money, and take said treasurer's duplicate receipts for the same, and have such receipts recorded in the office of the county auditor immediately upon the receipt of the same, and it shall be the duty of the county auditor to transmit a certified copy of said receipts to the register of the land office as soon as it is recorded in his office. Paym't and receipt.

SEC. 5. It shall be the duty of the county treasurer of such county to pay over to the Treasurer of this state, at the same time and in the same manner as other state revenues, all moneys received by him under the provisions of this act; and he shall at the same time transmit to the State Controller a certificate Co. treasurer to certify.

showing the name of the purchaser, the numbers of the surveys, as shown by the records of the county surveyor, and the number of acres purchased, and the amount of money to be credited to the swamp land fund.

Register to
issue
certificate.

Sec. 6. It shall be the duty of the State Treasurer, upon receipt of the purchase money, according to the provisions of this act, to certify the same to the register of the land office, whose duty it shall be to issue a certificate of purchase to the purchaser, designating the lands purchased, by their proper sections, townships, and ranges, connecting with the United States surveys, unless the location has been made for the protection of the actual settler, as hereinafter provided. But the register shall not issue a second certificate of purchase of the same land; nor shall the name of one purchaser be substituted for another at any time before the certificate is issued by the register, as provided in this act.

Evidence of
title.

SEC. 7. The certificate of purchase issued by the register, as aforesaid, or by the Secretary of State, under the provisions of an act entitled "an act to provide for the sale of the swamp and overflowed lands belonging to this state," passed April twenty-eighth, one thousand eight hundred and fifty-five, shall be *prima facie* evidence of title, and all persons holding any such certificate, or certificates, of the register, shall present the same to the Governor of this state; and, should the Governor find that the land, or a part of the land, designated in said certificate, belongs or has been confirmed to the state, and the whole amount of purchase money, together with interest thereon, has been paid, he shall issue a patent for said land, or said part of said land, to and in favor of the original holder of the surrendered certificate, or to his legal representatives; or, in case such original certificate has been assigned, then to the last assignee of such certificate, or to his legal representative, and the title shall vest in such assignee or legal representative as effectually as if he had been the original purchaser; *Provided*, that neither the patent provided for in this section, nor the certificate provided for in the sixth section of this act, shall have any other legal effect or force than as a quit-claim of all right, title, and interest, on the part of the state.

Issue patent.

Quit-claim.

No more th'n
320 acres.

SEC. 8. No person shall become the original purchaser, as aforesaid, under the provisions of this act, of more than three hundred and twenty acres, and the same must be taken in quarter sections, according to the United States survey, except as hereinafter provided for the protection of actual settlers, or where such location is impracticable, or where smaller subdivisions are found necessary, in order to make up three hundred and twenty acres, or the number of acres sought to be purchased, and so certified by the county surveyor; then, and in that case, the next legal subdivision or fractional section may be taken; *Provided*, the whole does not exceed three hundred and fifty acres, or measure more than one-half mile front on any bay or navigable stream.

Settlers to
comply with
law.

SEC. 9. Any person, or persons, having or holding a settler's claim, under the laws of this state for the protection of settlers, or having or holding a claim by right of actual possession, or having or holding a claim by survey and location, to swamp

lands excepted from the provisions of the act entitled "an act to provide for the sale of the swamp and overflowed lands belonging to this state," passed April twenty-eight, one thousand eight hundred and fifty-five, upon any of the swamp and overflowed lands embraced within the provisions of this act, shall be protected in his, her, or their possession, according to the boundary lines of said possession or location; *Provided*, that he, she, or they shall, within twelve months from and after the passage of this act, comply with all the other requirements of purchasers under the provisions of this act; *Provided, further*, that the said claim shall not exceed three hundred and twenty acres, or measure more than one-half mile front, by legal subdivision, on any bay, lake, or navigable stream.

SEC. 10. When there are conflicting claims to such lands, the register may administer oaths, and shall, upon proper notice to the parties, and upon hearing testimony and statements under oath, decide to whom the certificate shall be issued, in accordance with the law on the subject, and shall issue the certificate accordingly. Conflicting claims.

SEC. 11. All surveys under the provisions of this act, shall be made according to the instructions from the Surveyor General, and shall be made to conform to the surveys of the public lands by the general government, except that the lands held by actual settlers shall be surveyed after what is known as the geodetic method, and such geodetic surveys shall be made to conform to the lines and boundaries established by such settlers. Surveys.

SEC. 12. All expenses attending the survey and purchase of land, under the provisions of this act, so far as the same applies to the county officers of the county in which the land is sought to be purchased, shall be paid by the purchaser; but the purchaser shall not be required to pay for a second survey of land, in case of a previous legal survey of the same, or in case the survey is not approved by the Surveyor General. Expenses.

SEC. 13. The swamp and overflowed lands situated within the city and county of San Francisco, and within five miles of San Diego and Oakland, or within the limits of the town or village of Washington, Yolo county, according to the map or plat thereof, or of any incorporated city or town in this state, shall be, and are hereby, excluded from the provisions of this act; And provided, also, no salt-marsh land shall be subject to be located under the provisions of this act for a period of six months from and after its passage, except by parties owning or occupying the adjoining arable lands; Provided, that the foregoing proviso shall not apply to the counties of Napa, Solano, Yolo, Contra Costa, and San Joaquin. Lands exempted.
Salt-marsh land.

SEC. 14. County surveyors are hereby authorized to administer oaths. Oaths.

SEC. 15. It shall be the duty of the Surveyor General to transfer all surveys made under the provisions of an act entitled "an act to provide for the sale of the swamp and overflowed lands belonging to this state," passed April twenty-eighth, one thousand eight hundred and fifty-five, to the state register. Transfer surveys.

SEC. 16. An act entitled "an act to provide for the sale of the swamp and overflowed lands belonging to this state," passed April twenty-eighth, one thousand eight hundred and fifty-five, 1855

Act repealed. is hereby repealed: *Provided*, that the repeal of said act shall no wise disturb or affect any rights which have become vested or which have accrued under the act hereby repealed.

CHAP. CCXXXVI.—*An Act for the relief of Daniel J. Thomas.*

[Approved March 21, 1858.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Acc't allow'd SECTION 1. The board of examiners may audit and allow an account of Daniel J. Thomas, for the sum of two hundred and fifty dollars, for services rendered the state under joint resolution number twenty-one of the eighth session of the Legislature; and the Controller shall draw his warrant therefor on the Treasurer of State, and the sum of two hundred and fifty dollars is hereby set apart and appropriated out of the general fund to pay the same.

CHAP. CCXXXVII.—*An Act to fix the Compensation of the District Attorney of the County of Sierra.*

[Approved April 21, 1858.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Salary. SECTION 1. The district attorney of the county of Sierra shall be entitled to receive for his services, annually, the sum of two thousand dollars.

Act repealed. SEC. 2. All acts and part of acts, so far as they conflict with the provisions of this act, are hereby repealed.

CHAP. CCXXXVIII.—*An Act fixing the Salary of the District Attorney of Solano County.*

[Approved April 21, 1858.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Salary. SECTION 1. The district attorney of Solano county shall receive for his services, annually, the sum of fifteen hundred dollars, from and after the passage of this act.